

**Arizona State Board of Homeopathic Medical
Examiners
Minutes of Regular Meeting
March 11, 2003**

BOARD MEMBERS PRESENT:

Bruce Shelton, MD, MD(H), President

Charles Schwengel, DO, MD(H), Vice President

Joan Heskett, Secretary-Treasurer (joined the meeting by teleconference at 9:20 a.m.)

Garry Gordon, MD, DO, MD(H)

Anna Marie Prassa

Annemarie Welch, MD, MD(H)

ADMINISTRATIVE STAFF:

Christine Springer, Executive Director

ATTORNEY GENERAL REPRESENTATIVE:

Mark Harris, Assistant Attorney General (left meeting at 11:45 a.m.)

I. CALL TO ORDER

Presiding officer, Bruce Shelton, MD, MD(H), called the meeting to order at 9:00 a.m.

II. APPROVAL OF MINUTES

A motion approving the January 14, 2003 Regular Session Minutes was made by Dr. Gordon. The motion was seconded by Board Member Prassa and passed with a majority vote. Ms. Prassa made a motion approving the January 14, 2003 Executive Session Minutes as revised. Her motion was seconded by Dr. Gordon and passed with a majority vote.

II. LICENSE APPLICATIONS

A. *New Applications*

The application submitted by Ruth T. Lim, M.D. was reviewed (Dr. Shelton recused himself from consideration of this matter). Dr. Gordon made a motion granting Dr. Lim's request to waive the written examination and voted to accept the application as presented. Ms. Prassa seconded the motion that carried with a majority vote.

Dr. Lim presented her review of oral examination number two and after her presentation she responded to questions from various board members. Dr. Gordon made a motion approving Dr. Lim for licensure. Ms. Prassa seconded the motion that passed with a majority vote.

B. *Previously Licensed Practitioners*

Joseph Collins MD(H)

The Board discussed a request by Joseph Collins, MD(H) to revise language contained within a consent agreement and order for issuance of license he signed on August 26, 2002. (Dr. Schwengel was recused from the discussion in this agenda item). The executive director explained that Dr. Collins was having difficulty obtaining employment because the language contained in the consent agreement appeared to indicate that his medical practice must be supervised. The board agreed that their intention was that Dr. Collins should work as an employee in a medical practice, but that it was not their intention to have his work supervised.

Dr. Gordon made a motion to change the language of the consent agreement on page 3, line 16-17 and remove the word "supervised". Dr. Welch seconded the motion. There was discussion about the basis of the order contained within the conclusions of law page 3, line 4. Dr. Collins indicated in his letter that he did not believe ARS §32-2912(A)(1) (lack of good character) was a proper reason for indicating why the license would have been denied had the consent agreement not been accepted. Dr. Gordon withdrew his motion.

A.A.G. Harris noted that the basis of the original action leading to the consent agreement appeared to reflect Dr. Collins past troubles with the Securities Division in the State of New Mexico as indicative of a lack of good character. Another option the board may want to consider would be to shift the denial from a character issue to a conduct issue which would relate to ARS §32-2912(A)(5) (a professional record that would constitute grounds for disciplinary action).

Board Member Prassa made a motion to withdraw the consent agreement and deny the license pursuant to ARS §32-2912(A)(1). Motion failed for lack of a second.

Dr. Welch made a motion to eliminate the word "supervised" on page 3 line 17. Dr. Gordon seconded the motion that passed with a majority vote. Ms. Prassa voted no.

Dr. Gordon made a motion to change the basis of the license denial on page 3, line 4 from ARS §32-2912(A)(1) to ARS §32-2912(A)(5). Motion seconded by Dr. Welch. Board members Prassa and Heskett voted no; Drs. Shelton, Welch and Gordon voted yes. Motion passed with a majority vote. Dr. Schwengel was recused.

A.A.G. Harris stated that should Dr. Collins disagree with the board action he should be instructed to write to the board and indicate that disagreement. The board would then rescind the consent agreement and deny the license.

Dr. Gordon made a motion to inform Dr. Collins in a letter of the board's changes to the current consent agreement. Should Dr. Collins not accept the revised consent agreement he may submit his disagreement in writing. At that point the board may consider rescinding the consent agreement and would be compelled to act upon the pending application for licensure. The Board may want to consider the application on the basis of whether or not Dr. Collins meets requirements for licensure under A.R.S. 32-2912(A)(5) and A.R.S. 32-2933(17). . Motion seconded by Dr. Welch and passed with a majority vote.

Ellis Browning, MD(H)

Following a review of an audiologists report submitted by Dr. Browning in conformance with the requirements of a consent agreement, Dr. Gordon made a motion approving Dr. Browning's annual renewal of license for 2003. Motion seconded by Ms. Prassa and passed unanimously.

IV. INVESTIGATIONS and COMPLAINTS

Previous Matters

Case CV2002-021232 Kathleen Fry MD, MD(H) vs. Arizona Board of Homeopathic Medical Examiners

Following a motion by Dr. Gordon, the Board adjourned to Executive Session at 10:00 a.m. for legal advice regarding Case CV2002-021232 Kathleen Fry. The motion was seconded by Ms. Prassa and passed unanimously. The Board returned to the Regular Meeting at 10:15 a.m.

The Board adjourned for a ten minute break at this portion of the meeting.

02-17 B.J.L. vs. Alexander Cadoux, MD, MD(H)

The executive director explained that Dr. Cadoux was available by telephone should the board have specific questions. Several board members expressed their concern that the information FAXed late in the afternoon of March 10, 2003 by Dr. Cadoux in response to the board's request for additional information would require additional time to review. Dr. Gordon made a motion directing that Dr. Cadoux be informed of the Board's decision to continue the investigative interview to the next regularly schedule meeting. Should Dr. Cadoux fail to appear a subpoena would be issued to compel his attendance. Motion seconded by Ms. Prassa and passed unanimously. The motion included a board request that Dr. Cadoux be instructed to bring B.J.L.'s complete patient record to the May investigative interview.

97-07 OBEX vs. Charles Schwengel, DO, MD(H)

The executive director provided an update on this previously closed case. After general discussion Dr. Gordon made a motion instructing the executive director to send a letter to the Osteopathic Board of Medical Examiners offering the board's services as the primary investigator in the matter. Dr. Welch seconded

the motion that passed with a majority vote. (Dr. Schwengel was recused from consideration of this agenda item).

New Cases

03-05 L.G. vs. Annemarie Welch, MD, MD(H)

(Dr. Welch recused herself from the discussion in this matter). There was general discussion of the Arizona Medical Board procedures and the lead jurisdiction they had taken in this case. Drs. Schwengel and Shelton made reference to a previous case that involved dual jurisdiction (Bigelsen vs. Arizona Board of Medical Examiners). A.A.G. Harris commented that the new director of the Arizona Medical Board may be in the process of reviewing past procedures to determine if changes would benefit that board. He suggested the two executive directors and presiding chairmen may want to set up a meeting to discuss board processes. Dr. Gordon made a motion that the board send a letter making reference to the Bigelsen case and indicating our concern with the Arizona Medical Board taking lead jurisdiction in a case that utilizes predominately homeopathic procedures. Board Member Prassa seconded the motion that passed with a majority vote.

Dr. Gordon made a motion to open an investigation of the instant matter. Ms. Prassa seconded the motion that passed by majority vote. Dr. Schwengel reviewed the homeopathic merits of the case. He briefly noted the two allegations listed in the notes from the Arizona Medical Board and directed the board's attention to a consideration of whether or not there was a correlation between the Vitamin C therapy administered to the patient and the patient's subsequent acute renal failure. Dr. Schwengel stated that his review of the voluminous records in the case did not point to a violation of homeopathic procedures or of the laws governing homeopathic physicians. In addition, patient notes indicate that L.G. was not compliant with Dr. Welch's treatment recommendations.

Dr. Schwengel made a motion dismissing the case noting that Dr. Welch met the homeopathic standard of care. Dr. Gordon seconded the motion that passed with a majority vote. The executive director was instructed to send a letter the Arizona Medical Board stating that at the March 11, 2003 meeting the board reviewed the allegations in this case of unprofessional conduct by Dr. Welch. They found that under our practice act there were no violations of the homeopathic standard of care. The Board also requested the letter reference the Bigelseon case and the dangers of co-terminous investigations.

03-08 P.C. vs. Abram Ber, MD(H)

Dr. Welch served as the assigned reviewer in this matter and provided an overview of the facts of the case. Dr. Shelton referenced *AAC R4-38-109(C)(1)* regarding experimental devices and whether or not the device in this case had been in use for at least ten years. Drs. Shelton and Welch, as well as Ms. Heskett expressed concern over the sparse patient medical records and

treatment notes. No informed consent was present in the file and no record of an initial examination performed on the patient. Dr. Shelton inquired as to whether or not a que tip swab of a patient's saliva would serve as an examination. A.A.G. Harris expressed that the board must open an investigation if they believe there are additional facts that must be accessed. The Board may also want to question whether or not there was an adequate patient record and weigh that with what the normal industry standard is with regard to patient records. Additionally, the Board may want to consider whether the patient record created by Dr. Ber would have been beneficial to a subsequent homeopath.

Dr. Welch moved to open an investigation and directed that medical records from P.C.'s treating physicians be requested. The records should include the medical history, surgery, discharge summary, and any previous treatment rendered. Motion seconded by Ms. Prassa and passed unanimously. They directed that Dr. Ber be requested to attend the next meeting for an investigation interview pursuant to A.R.S. 32-2934 (C).

V. HOMEOPATHIC MEDICAL ASSISTANT APPLICATIONS

A. *New Applications*

Dr. Gordon moved to approve the homeopathic medical assistant application of Jeri Hondred. Ms. Prassa seconded the motion that passed unanimously.

B. *Other Matters*

During discussion of the matter regarding Valerie Prewitt, H.M.A., Dr. Shelton was recused. Dr. Schwengel reviewed the information presented and invited discussion. Ms. Prassa inquired about whether the facts indicate a violation of the medical assistant statute or rule. Dr. Welch commented that Dr. Shelton, as the supervisory physician, had appropriately directed Ms. Prewitt to rectify her behavior. A.A.G. Harris noted that the medical assistant regulation, as currently written, places responsibility for discipline of the assistant with the physician. It becomes an employer/employee matter. The registration requires the physician to register the assistant and confers authority to the physician to determine appropriate action against the medical assistant.

Dr. Gordon moved directing the Board send a letter to Dr. Shelton thanking him for bringing the matter to the Board's attention. The letter may suggest that should Dr. Shelton deem it appropriate he may want to have Ms. Prewitt submit to random drug testing. Dr. Welch seconded the motion that carried unanimously.

Dr. Gordon moved to approve a request from Edward Kondrot, MD, MD(H) to serve as the supervisory physician for the following medical assistants who were previously supervised by Dr. Todd Rowe: Lynn Forsyth, Pardeep Panesar, and Dee Babicke. Motion seconded by Ms. Prassa and passed unanimously.

VI. PROFESSIONAL BUSINESS

1. Board Member Prassa provided an update concerning the status of obtaining draft questions in specific modalities which would allow the examination committee to begin reviewing questions for possible inclusion in a revision of the written examination. The Board discussed which modalities, as recognized by ARS §32-2901(22) that provides the definition of the practice of homeopathic medicine, could be included in the written examination. The Board also reviewed AAC R4-38-105 concerning procedures for conducting licensing examinations. There was a general consensus that ideally, the written examination would test for basic knowledge of all of the recognized modalities defined in ARS 32-2901(22). The current rule (AAC R4-38-105) may require revisions before the current written examination could be changed.

2. Following a motion from Dr. Gordon chelation protocols for Murray Susser, MD, MD(H) and Jack Young, MD, MD(H) were reviewed and accepted as meeting industry standards. Motion seconded by Ms. Prassa and passed unanimously. Dr. Gordon also reviewed and made a motion to approve chelation protocols utilizing EDTA as submitted by Dr. Pamela Morford, MD, MD(H). He noted that Dr. Morford had also submitted a protocol for DMPS and in his motion indicated that those too would be approved with the addition of certain language in the informed consent. Motion seconded by Ms. Prassa and passed unanimously.

3. The board briefly discussed the PACE program. Dr. Gordon indicated that the California Medical Board had utilized these educational programs in disciplinary actions and that the Board may want to consider the information for future actions. The program provides intensive continuing education in specific areas typically involving rehabilitation efforts imposed by state boards in professional disciplinary actions.

Meeting adjourned for lunch at 12:10 pm.

VII. RULES/LEGISLATION

An extensive discussion was held regarding proposed changes to AAC, Chapter 38, Article 3, Education, Supervision, and Delegation Standards for Registration of Medical Assistants, Sections R4-38-301 through R4-38-311. The Board considered the written comments provided by public members, current medical assistants and other industry related professionals. A motion was made by Dr. Gordon to open a rulemaking docket at the Office of the Secretary of State, Ms. Prassa seconded the motion that passed unanimously.

VIII. CALL TO THE PUBLIC

Lisa Platt, representing AHIMA and Lloyd president of complemented the Board on their proactive stance regarding the rulemaking process.

IX. CLOSE OF BUSINESS/ADJOURNMENT

The meeting adjourned at 2:55 p.m. following a motion by Dr. Gordon, seconded by Anna Prassa, and passed unanimously. The next Regular Meeting of the Board will convene at the State Board's Offices, 1400 W. Washington, Basement Conference Room B-1, Phoenix, Arizona, 9:00 AM, on **May 13, 2003**.

Respectfully Submitted,

Christine Springer
Executive Director